

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Crl.MC.No. 2213 of 2007()

CC.102/2002 of JUDL. MAGISTRTE OF FIRST CLASS COURT-III, THRISSUR
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PETITIONER/ACCUSED:

K.M.UMMER, AGED 45 YEARS, S/O.MOIDUNNI,
PROPRIETOR, "GLASCO",
CHANGARAKULAM, NALLAM KUNNU P.O.,
THRICHUR DISTRICT.

BY ADV. SRI.K.J.SAJI ISAAC
SRI.V.JOHN SEBASTIAN RALPH

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM
2. SUNNY ANTO, AUTHORISED BY THE HOLDER OF POWER
OF ATTORNEY MR.THOMAS VAZHAPPILLY, AGED 50 YEARS,
S/O.LAZER VAZHAPPILLY, KURIACHIRA DESAM,
CHEEYARAM, TRICHUR DISTRICT.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2213 of 2007

Dated this the 10th day of July 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Consequent to his non-appearance before the learned Magistrate, the learned Magistrate has issued coercive processes to secure the presence of the petitioner.

2. According to the petitioner, he is innocent of the allegations raised. According to him, his absence was not wilful and was due to reasons beyond his control. The petitioner submits that he is willing to co-operate with the court for expeditious disposal. He is willing to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before

the learned Magistrate.

4. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007